

Kay Morrison/R10/USEPA/US

To Scott Downey

03/05/2012 09:45 AM

cc

bcc

Subject Re: Fw: To Investigative Team: A Response to Industry Tactics and A Request for Three Specific Actions

Is EPA preparing a response to Day's message?

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Never doubt that a small group of thoughtful, committed citizens can change the world. Indeed, it is the only thing that ever has. -- Margaret Mead

Scott Downey

fyi, from Day Owen ... ----- Forwarded by Scott D...

03/05/2012 08:42:38 AM

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Date: 03/05/2012 08:42 AM
Subject: Fw: To Investigative Team: A Response to Industry Tactics and A Request for Three Specific Actions

fyi, from Day Owen ...

----- Forwarded by Scott Downey/R10/USEPA/US on 03/05/2012 08:41 AM -----

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Date: 03/02/2012 03:57 PM
Subject: To Investigative Team: A Response to Industry Tactics and A Request for Three Specific Actions

To: The Investigative Team for the Triangle Lake Area Pesticide Exposure, The Register-Guard Newspaper, Eugene Weekly (all other recipients are FYI)

From: Day Owen, Triangle Lake Pesticide Poisoning Victims United

A MAJOR DEVELOPMENT HAS TAKEN PLACE THAT SERIOUSLY COMPROMISES THE POTENTIAL ACCURACY of the current PARC investigation of pesticide exposures near Triangle Lake. The recent industry tactics -- predicted by Triangle Lake residents in advance as can be confirmed by both Captain Kaufman of ATSDR and Jae Douglass of OHA -- whereby the timber companies dodge the bullet **(the atrazine/2,4-D study bullet)** by refusing to apply atrazine or 2,4-D within two miles of the several small towns in the Triangle Lake area during the spring spray season, coupled with an examination of the four 'alternate' locations for spring urine samples

currently being considered by the investigative team, bring us to a critical moment: **WE CALL ON THE INVESTIGATIVE TEAM TO RESPOND TO THE CLEAR LACK OF COOPERATION WITH THIS STUDY ON THE PART OF THE TIMBER INDUSTRY BY TAKING THE FOLLOWING THREE ACTIONS:**

Three Requests for Specific Actions

1. **REQUEST NUMBER ONE:** Inform the media that this significant event has occurred; honestly acknowledge that this tactic was not expected by the investigative team, that this is a **MAJOR DEVELOPMENT WITH PROFOUND IMPLICATIONS** -- which you have already acknowledged in the letter sent by Karen Bishop of OHA to residents of the several towns of the Triangle Lake area -- **and plays havoc with the study,** including the incredible -- perhaps insurmountable -- difficulty of trying to come up with yet another set of baseline samples at the last minute in enough quantity as to be statistically significant, considering the fact that the spray season is now beginning, and baselines are supposed to be taken prior to the first sprays.

NOTE: Here are the facts related to request number one:

a) The current PARC investigation was the state's response to the announcement by Dr Dana Barr that 100% of the residents she had tested in the Triangle Lake area had higher than normal baseline levels of both 2,4-D and atrazine in their **winter baseline samples,** and that most had then **spiked to higher levels when tested a second time within 48 hours** of the April 8 and/or April 19 aerials sprays by Weyerhaeuser near Triangle Lake.

b) Because the current PARC investigation was in response to Dr Barr's announcement made on April 29, 2011, during a special pesticide policy debate organized by the Oregon Board of Forestry, its written purpose was to 1) Phase One of Study: By taking baseline and follow-up urine and environmental samples, to determine if pesticide drift is occurring in the area covered by Dr Barr's Study, and 2) If so, what is the pathway(s) -- the means -- of that drift (aerial? water? etc) ; 3) If Phase One of the study (the first year of baseline and follow up samples) found that there was pesticide drift into the bodies of residents -- which would be demonstrated if the second samples of the same people spiked when tested 24 hours after sprays -- then, if funding is in place at the time, a second year of the study would be devoted to a health study in the same area.

c) Having at the outset of the study determined in writing the preferred test location -- a circle around Triangle Lake that included roughly the same area studied by Dr Barr -- as well as a larger, secondary region that would be considered close enough to the Triangle Lake epicenter that, if no spraying of atrazine or 2,4-D occurred, would serve as back-up, **BECAUSE THE SAME TOPOGRAPHIC FEATURES WERE SHARED AND IT WAS REASONABLY CLOSE TO THE AREA THAT DR BARR HAD STUDIED.**

d) The **significant development of profound implication to the integrity of this study that has NOW OCCURRED in that the investigative team has learned -- and this week communicated this to the many dozens of Triangle Lake area residents who had participated in the fall baseline samples and expected to be included in the follow-up spring samples -- NO TIMBER COMPANY IS GOING TO SPRAY ATRAZINE OR 2,4-D WITHIN EITHER THE PRIORITIZED TEST AREA** (the area

studied by Dr Barr) **OR EVEN THE SECONDARY BACK-UP ZONE THAT WAS CONSIDERED AT LEAST REASONABLY NEAR THE TRIANGLE LAKE AREA THAT WAS THE EPIC-CENTER OF THE BARR STUDY,** during the spring testing period.

Note: This action by industry is what Triangle Lake residents warned the investigative team at the outset of the study that we believed would be the likely tactic employed by the timber industry.

e) In the letter to residents that participated in the first round of testing by the PARC-led team received by residents around March 1, 2012, in which you acknowledged that the above-described development was a surprise to the investigative team, you included aerial photographs of the four closest areas that industry has filed papers stating that both atrazine and 2,4-D -- the only pesticides that you can detect in urine samples -- will be used this spring of 2012. In examining them, it seems that not only are they well outside of the area studied by Dr Barr near Triangle Lake, but they are strikingly **not similar enough in regard to topographic features to form the basis for an adequate comparison.** Furthermore, as your team states in your letter, those four locations are those that **might** include atrazine and 2,4-D, because they are listed in the declarations section for pesticides that might be used. As you know, often, many more pesticides get listed on that preliminary form than end up actually being used in a specific spray location. Thus, of the four possible 'alternate' spray locations that you included aerial photos of in your letter -- none of which is near or similar to Triangle Lake -- some are even less likely to result in long range chemical drift than the others. Thus, if, despite having offered four sights that *might* be sprayed with atrazine and 2,4-D, industry can simply: **only actually spray the one or two least likely candidates for drift of those four,** thus adding even another layer of 'cherry-picking' the study location by industry. If they only actually spray one of those locations, they will have effectively determined the exact location of the study. (See the attached Appendix, a letter from expert Agronomist Stu Turner that explains the significance of the elevation of the release of herbicides to instances of long range drift; in brief: each additional ten feet in elevation of the helicopter at the time of the release of spray greatly increases the potential for drift; Stu Turner has many photographs of helicopters in regions of Oregon with similar topography that shows them releasing herbicide 80 to 100 feet in elevation or more, which the pilots do for safety reasons, so that they do not collide with still-standing tall trees that immediately neighbor some clearcuts, or crash into cliffs and mountain tops; it is, Stuart has argued to the EPA, BOF, and PARC co-chair Dale Mitchel, these features near Triangle Lake that conspire to produce the relatively large number of aerial spray drift complaints. To select other dissimilar spray locations would be like comparing apples and oranges. Note: Nobody has asserted that long range aerial spray drift occurs on all aerial spray applications. Rather, Triangle Lake (and other areas with similar topography) lend themselves to more instances of aerial spray drift.

2. **REQUEST NUMBER TWO:** If you are going to have to go out of the area of the original Triangle Lake epicenter of the study, then we request that you shift strategy in response to industry's obvious attempt to 'dodge the bullet': **WE HEREBY CALL ON YOU TO CHOOSE AREAS THAT MAY BE EVEN FARTHER FROM TRIANGLE LAKE BUT AT LEAST SHARE SIMILAR TOPOGRAPHIC FEATURES, INCLUDING THE ELEVATION OF THE SPOTS SPRAYED IN RELATION TO THE ELEVATION OF THE CLOSEST RESIDENTS;** preferably, these tests will be 'blind', in that industry will

not be given advance notification of the areas that you select, which means that only members of the investigative team that can be trusted not to inform industry of the locations can be privy to the locations in advance of collection of samples, which can be accomplished by keeping the locations private within OHA, EPA, and CDC, with all parties privy to the locations being sworn to secrecy.

NOTE: Here are the fact related to request number two.

a) You can access the preliminary spray records of two or three areas in Oregon that have similar topography to Triangle Lake -- for example, Marcola Road and the McKenzie Highway are two of several dozen comparable locations -- and that **also have similar elevation of spray location to elevation of nearest homes ratios.**

Because of the fact that the spring spray season is already upon us, **you can do the following rather easy methodology: don't even try and get a baseline sample: After the sprays occur, send a team in to go door-to-door, operate a phone outreach campaign, and send a mailing that was written in advance and is ready for mailing to all the residents in that spray area ASKING THEM TO CALL WITHIN 24 HOURS OF RECEIPT OF THE LETTER IF WILLING TO RECEIVE A FREE URINE SAMPLE.** Then, simply reverse engineer for the baseline: Each week for three weeks take follow up urine samples of the same people and, if there is a trend down in the amount of atrazine in the majority of the samples, you have meaningful data; test these people one last time in the midst of the following winter non-spray season.

3. REQUEST NUMBER THREE: We hereby again (fourth time in writing) ask the investigative team to accept into your possession the data related to the drift study conducted by Dr Barr. The second and third times we made this request -- that you accept the Barr study into your possession on at least an FYI basis -- Captain Kauffman replied that your team has declined the offer due to the difficulty of getting the informed consent of those thirty six persons. More recently, at the January PARC meeting, I informed Jae Douglass, the OHA team leader of the investigation, that it would actually be very simple to get the consent of those thirty-six persons: simply send out a letter to the thirty-six addresses (I can provide the addresses) and the vast majority will quickly give their consent. Importantly, immediately after that meeting, Jae asked to meet with myself and two other Triangle Lake residents that were present. She told us that she had met with an industry group and that they are questioning the validity of the Dr Barr results due to their "concerns about the chain of custody". However, neither PARC or the investigative team has ever even asked us about the chain of custody. In truth, our chain of custody was far more stringent than the lax chain of custody that the investigative team plans to implement whereby participants administer their own second urine samples and keep them in their refrigerator for later pick-up by a team member. In the Dr Barr study, participants were sent to the Peace Health lab where the samples were taken under the auspice of medical professionals who then took immediate possession of the samples and mailed them on dry ice by special courier service to Dr Barr's lab. Not only that, but the people who were invited to get tested included a large majority that had no connection whatsoever to my group, 'The Pitchfork Rebellion', or any other group: they simply lived where we knew the sprays would come and agreed to participate. Those people can be interviewed by your team and asked if they were members of any group related to the pesticide issue; many of them are people that I have never even met.

By making the above request yet another time, we are not simply being redundant. Rather, in the above mentioned meeting with Jae Douglass immediately after the January PARC meeting, after explaining all the above in regard to the absolute integrity of the chain of custody in the Barr study, I made a request of Jae that she seemed to think was reasonable and should be seriously considered. I predicted that come spray season, the timber industry would completely 'dodge-the-bullet' and not spray in our area and that, further, whatever closest locations they offered up by selecting for aerial applications of atrazine and 2,4-D -- the four now under consideration -- will not match the important topographic features of the Triangle Lake area studied by Dr Barr; I then asked Jae: **IF, IN FACT, INDUSTRY DOES THIS DODGE, WOULD YOU THEN BE WILLING TO ALTER YOUR POSITION ON THE ACCEPTANCE INTO YOUR POSSESSION ON AN FYI BASIS THE BARR STUDY DATA?** While Jae did not at all commit to that course of action, she did seem to indicate that this is a reasonable request and deserves serious consideration by the team. We hereby now ask for that consideration to occur.

REMINDER TO ALL RECIPIENTS: Attached is the document provided by expert Agronomist Stuart Turner in which he describes the relationship between long range drift potential and the sort of topographic features present at Triangle lake. He originally composed the attached document in relation to a petition to the EPA that I authored. But It includes data directly related to our topic at hand. Plus, we have asked Mr Turner to analyze the four 'alternate' possible spray locations currently being considered by your team. We will make your team aware of any opinions he may offer in regard to these four. *See attached file.*

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